

Chapter 17. VIOLATIONS AND PENALTIES

17.1 Complaints Regarding Violations

Whenever a violation of this Ordinance occurs, or is alleged to have occurred, any person may file a written complaint. Any written complaint stating fully the cause and basis of the complaint shall be filed with the Administrator who shall properly record such complaint, investigate in a timely manner, and take appropriate action as provided by this Ordinance.

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17.2 Penalties for Transferring Lots in Unapproved Subdivisions

Any property owner or owner's agent of any land located within the jurisdiction of the City of Salisbury, subdivides land in violation of this Ordinance or transfers or sells land by reference to, exhibition of, or any other use of a plat showing a subdivision of the land before the plat has been properly approved under this Ordinance and recorded in the office of the register of deeds, shall be guilty of a misdemeanor.

The description by metes and bounds in the instrument of transfer or other document used in the process of selling or transferring land shall not exempt the transaction from this penalty. The City of Salisbury may bring an action for injunction of any illegal subdivision, transfer, conveyance, or sale of land; and the court shall, upon appropriate findings, issue an injunction and order requiring the offending party to comply with this Ordinance. In addition, the City may refuse to issue any permits.

17.3 Penalties for Violation

Failure to comply with any provision of this Ordinance is hereby declared unlawful. The following remedies and enforcement powers may be used to administer and enforce this Ordinance.

- A. Civil Penalty:** In accordance with Section 8.5.1 of the General Code of Ordinances of the City of Salisbury the Administrator may, in addition to other remedies found in this Chapter, issue civil penalties.
- 1. Penalties for Violation:** Any person determined to be in violation of any of the provisions of this Ordinance shall receive a civil citation for a penalty of fifty dollars (\$50.00) for such violation. No penalty shall be assessed until the person alleged to be in violation has been notified of the violation by a code enforcement officer. Such notification shall be either through a personal visit or by certified mail. If uncorrected after the notification, a code enforcement officer who observed the violation shall issue a citation requiring the violator to pay the above-stated penalty to the city revenue department. The owner, tenant, or occupant of any building or land or part thereof or any person who participates in or acts in concert, assists, directs, creates, or maintains any condition found to be a violation shall be subject to the penalties and remedies herein provided.

2. **Uncorrected Violations:**

- a. When a code enforcement officer finds that a previous violation has not been corrected, he shall issue another citation requiring payment of an additional civil penalty in the amount of one hundred dollars (\$100.00).
- b. After a second citation has been issued, no further civil citation shall be issued to the same person for the same continuing violation at the same location unless and until an additional written notice is delivered to the offender by personal service, registered mail or posting of the notice at the location of the violation if reasonable attempts to serve the notice are unsuccessful. The notice shall set forth the nature of the violation and order that corrective action be taken. The notice shall state that failure to correct the violation within the time specified in the notice will result in the assessment of additional civil penalties and other enforcement action. If after the specified time period has expired and corrective action has not been completed, the civil penalty shall automatically activate in the amount of two hundred fifty dollars (\$250.00) per day and shall continue to be accrued at the rate of two hundred fifty dollars (\$250.00) per day until the violation is corrected. The code enforcement officer shall notify the violator by personal service or certified mail of the day of the civil penalty began to accrue and shall state that the penalty will continue to accrue for each day the violation remains uncorrected. Any enforcement action for injunctive relief by the city shall not stay or abate the accruing of the civil penalty, and the penalty shall continue to accrue daily until the violation is finally corrected either voluntarily or by the city as a result of a court order.

3. **Failure to Pay:** If the civil penalty is not paid within ten (10) days after demand for payment by a code enforcement officer, the city may initiate a civil action in the nature of a debt collection to recover civil penalties which have previously accrued. Such action shall not stop further civil penalties from accruing if the violation has not been corrected.

4. **Civil Citations not Exclusive:** Civil penalties are an additional remedy for code enforcement. In addition thereto, all remedies allowed in North Carolina General Statutes and this Ordinance may also be pursued by the city at the same time without waiving the civil penalties authorized in this chapter.

5. **Appeal of determination of violation:** A person notified of a violation may appeal such determination to the zoning board of adjustment. Such appeal shall be filed with the city not later than ten (10) days after the receipt of the first notice issued pursuant to section 17.3.A.1. Failure to file a timely appeal shall constitute acceptance of the determination that a violation exists. If an appeal is filed, further action by the code enforcement officer shall be suspended until a ruling is issued by the board of adjustment. If the board finds that a violation exists, enforcement under this chapter shall continue despite any further appeals by the violator. The fact that an appeal is filed or pending under this chapter shall not prevent the city from pursuing other enforcement remedies allowed by law and a finding by the zoning board of adjustment that a violation does not

exist shall not be binding in any other enforcement proceeding brought by the city against the same violation that the zoning board of adjustment ruled upon.

- B. Criminal:** Pursuant to North Carolina General Statute 14-4, any person, firm, or corporation convicted of violating the provisions of this Ordinance shall, upon conviction, be guilty of a misdemeanor and shall be fined an amount consistent with the General Statutes.
- C. Equitable Remedy:** The Administrator may apply to a judicial court of law for any appropriate equitable remedy to enforce the provisions of this Ordinance. It is not a defense to the Administrator's application for equitable relief that there are other remedies provided under general law or this Ordinance.
- D. Injunction:** Enforcement of the provisions of this Ordinance may also be achieved by injunction. When a violation occurs, the Administrator may, either before or after the initiation of other authorized action, apply to the appropriate division of the court for a mandatory or prohibitory injunction commanding the defendant to correct the unlawful condition or cease the unlawful use of the property.
- E. Order of Abatement:** In addition to an injunction, the Administrator may apply for and the court may enter into an order of abatement as part of the judgment in the case. An order of abatement may direct any of the following actions:

 - 1. Buildings or other structures on the property be closed, demolished, or removed;
 - 2. Fixtures, furniture or other moveable property be moved or removed entirely;
 - 3. Improvements alterations, modifications or repairs be made; or
 - 4. Any other action be taken that is necessary to bring the property into compliance with this Ordinance.
- F. Execution of Court Decisions:** If the defendant fails or refuses to comply with an injunction or with an order of abatement within the time allowed by the court, the defendant may be cited for contempt. The Administrator may execute the order of abatement and will have a lien on the property in the nature of a mechanic's and materialman's lien for the cost of executing the order. The defendant may secure cancellation of an order of abatement by paying all costs of the proceedings and by posting a bond for compliance with the order. The bond must be given with sureties approved by the Clerk of Superior Court in an amount approved by the judge before whom the matter was heard and shall be conditioned for the defendant's full compliance with the terms of the order of abatement within the time fixed by the judge. Cancellation of an order of abatement does not suspend or cancel an injunction issued in conjunction with the order.
- G. Stop Work Order Issuance and Revocation of Permits:** Whenever a building, structure or part thereof is being constructed, demolished, renovated, altered, or repaired in material violation of any applicable provision of this Ordinance, the Administrator may order the specific part of the work that is in violation, or would be when the work is completed, to be immediately stopped. The stop work order shall be

in writing, directed to the person doing the work, and shall state the specific work to be stopped, the specific reasons for cessation and the action(s) necessary to lawfully resume work.

The Administrator may revoke any permit (e.g. Building Certificate of Occupancy) by written notification to the permit holder when violations of this Ordinance have occurred. Permits may be revoked when false statements or misrepresentations were made in securing the permit, work is being or has been done in substantial departure from the approved application or plan, there has been a failure to comply with the requirements of this Ordinance, or a permit has been mistakenly issued in violation of this Ordinance.